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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,369	09/16/2003	Alexander Boukas		1631

7590 09/29/2004

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EXAMINER

ALI, MOHAMMAD M

ART UNIT PAPER NUMBER

3744

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,369

Applicant(s)

BOUKAS, ALEXANDER

Examiner

Mohammad Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11, 12 and 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11, 12 and 14-19 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A: Fig. 1-2 and 4;

Species B: Fig. 3 and

Species C: Fig. 5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Thomas A. O'Rourke on 09/24/04 a provisional election was made without traverse to prosecute the invention of SPECIES A, claim 1-10 and 13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-12 and 14-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6-7, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Solhkhah (3,525,236). Solhkhah discloses a portable self cooling device for cooling a liquid in a portable container 10 comprising a housing/cylinder housing 20, the housing 20 having a top end with opening 48 and a bottom end/surface 42 adapted to attach to

the portable container 10, a can 18 of compressed gas within the housing 20, the can having a release valve/removable tap 49 to expel the compressed gas; and a heat exchanger/radiator means 45 around an exterior surface of the can 18, the heat exchanger 45 adapted to absorb heat from a warm liquid. See Fig. 2, 3 and column 4, lines 2-14. The numeral 18 in Fig. 3 defines as an expansion valve forming at the opening 48 when tap 49 is removed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 3, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solhkhah. Solhkhah discloses the invention substantially as claimed as stated above. However, Solhkhah does not disclose a bevel opening, a copper heat exchanger and an open container. Solhkhah discloses an opening 50 for pouring beverages or any liquids for serving the same purpose of the claimed invention, radiator 45 or fins 46 constructed of a metallic material having superior heat conduction properties such as aluminum obviously indicating the material can be copper too and the container 11 may be kept open by removing or without providing closure 52 and it will still serve the same purpose of the claimed invention. Therefore, choosing bevel shape opening pouring and drinking liquid, copper or aluminum heat exchanger, open or closed container is an

obvious choice of the individual skilled in the art since there is no criticality or unexpected result from it.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solhkhah in view of King (5,065,879). Solhkhah discloses the invention substantially as claimed as stated above. However, Solhkhah does not disclose a threaded housing. King teaches the use of a threaded housing with bottom threads 25 with a beverage container 1 for the purpose of fixing the base 5 with other support or device. See Fig. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the portable cooling device of Solhkhah in view of King such that a threaded housing could be provided in order to fix the base with some device.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solhkhah in view of Adamek (6,039,207). Solhkhah discloses the invention substantially as claimed as stated above. However, Solhkhah does not disclose a rubber housing. Adamek teaches the use of a rubber housing 4 for a beverage container 12 for the purpose of holding a can/container. See Fig. 1 and 2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the portable cooling device of Solhkhah in view of Adamek such that a rubber housing could be provided in order to hold a can/container.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Solhkhah in view of Ovshinsky et al., (6,318,453). Solhkhah discloses the invention substantially as claimed as stated above. However, Solhkhah does not disclose a porous mesh.


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Ovshinsky et al., teach the use of a porous mesh in a cooled storage system for the purpose of cooling hydrogen gas. See Fig. 2 and claim 12. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the portable cooling device of Solhkhah in view of Ovshinsky et al., such that a porous mesh could be provided in order to cool the liquid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is 703-308-5032. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Esquivel Denise can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Mohammad m. Ali  
September 24, 2004